



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/891,339	06/26/2001	Christopher Harry Austen	AUS920010329US1	2235

7590 06/30/2004

Duke W. Yee
Carstens, Yee & Cahoon, LLP
P.O. Box 802334
Dallas, TX 75380

EXAMINER

LE, DIEU MINH T

ART UNIT	PAPER NUMBER
----------	--------------

2114

DATE MAILED: 06/30/2004

7

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/891,339

Applicant(s)

AUSTEN ET AL.

Examiner

Dieu-Minh Le

Art Unit

2114

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 April 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 October 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Response to Amendment

1. This Office Action is in response to the amendment filed April 13, 2004 in application 09/891,339.
2. Claims 1-28 are again presented for examination.
3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
4. Applicant's arguments filed on 04/13/04 have been fully considered but they are not deemed to be persuasive.
5. Claims 1-6, 10-19, 23-28 are again rejected under 35 U.S.C. § 102(b) as being unpatentable Mehta et al. (US Patent 6,065,139 hereafter referred to as Mehta).

This rejection is being applied for the same reasons set forth in the previous Office Action paper number 4, paragraph 4 mailed January 26, 2004.

As per claims 1-6, 10-19, 23-28, see the previous office action for the detailed teaching of Mehta.

Applicant asserts that Mehta failed to teach or suggest the following:

- 5.1 a method for service processor surveillance;
- 5.2 receiving a service processor status request from a partition;
- 5.3 updating an official response for a surveillance test for a service processor;
- 5.4 returning the status for the service processor to a partition;

Examiner respectfully transverses Applicant's argument as follows:

5.1 First, it is not true that Mehta failed to teach, "a method for service processor surveillance".

Examiner would like to bring Applicant attention to Mehta's method and system for surveillance of computer system comprising a processor, processor supporting firmware, and a service processor [col. 4, lines 54-56]. It is clearly that Mehta does teach applicant's invention.

Second, Mehta's figure 1 clearly illustrated the service processor surveillance in order to performing data accessing (i.e., reading/writing) to and from devices.

5.2 It is not true that Mehta failed to teach, "receiving a service processor status request from a partition".

Mehta explicitly teaches:

- determining status of computer system with service processor based on surveillance process [col. 1, lines 64 through col. 2, lines 4];
- receiving a service processor surveillance signal and responding to surveillance signal [col. 2, lines 29-31].

This is clearly that Mehta does demonstrate applicant's limitation in supporting the service processor surveillance for the computer system.

5.3 It is not true that Mehta failed to teach, "updating an official response for a surveillance test for a service processor".

Mehta explicitly teaches:

- initialization/initial program load (IPL), stored surveillance policy setting and beginning monitoring system operation [col. 4, lines 25-28].

Art Unit: 2114

- surveillance activity commences with the calling of the architecture function, determining heartbeat signal, checking heartbeat signal, executing recovery, notifying failure, transferring agent for heartbeat transmission, etc.. [col. 3, lines 56 through col. 4, lines 20].

Mehta clearly shows the updating an official response via above capabilities. By updating response, Mehta performs checking, notifying, transferring, etc.. in supporting the service processor surveillance for a system.

5.4 It is not true that Mehta failed to teach, "returning the status for the service processor to a partition".

Mehta explicitly teaches:

- returning any discovery (i.e., status) to the firmware [col. 4, lines 8-20] based on surveillance signaling [col. 4, lines 2-7].

Mehta clearly demonstrated applicant's limitation. It is intuitively and inherently that the returning capability must apply therein to close the loop in service processor surveillance process in order for the system to conduct reading/writing of the surveillance information, etc..

6. Claims 7-9 and 20-22 are again rejected under 35 U.S.C. § 103 (a) as being unpatentable Mehta et al. (US Patent 6,065,139 hereafter referred to as Mehta).

This rejection is being applied for the same reasons set forth in the previous Office Action paper number 4, paragraph 7 mailed January 26, 2004.

As per claims 1-6, 10-19, 23-28, see the previous office action for the detailed teaching of Mehta.

Applicant asserts that Mehta failed to teach or suggest the following:

6.1 comparing the official response to a partition official response, setting the partition official response to be equal to the official response.

It is not true that Mehta failed to teach, "comparing the official response to a partition official response, setting the partition official response to be equal to the official response".

First, Examiner would like to bring Applicant attention to Mehta's method and system for surveillance of computer system comprising a processor, processor supporting firmware, and a

service processor [col. 4, lines 54-56]. It is clearly that Mehta does teach applicant's invention.

Second, Mehta explicitly teaches the method for service processor surveillance [fig. 1, abstract, col. 1, lines 23-25] comprising determining if a surveillance period/interval has been reached [col. 3, lines 58-60] and system check and surveillance report [col. 3, lines 60-65] and architecturing functions for system surveillance including setting monitoring system operation [col. 4, lines 2-7 and 25-30].

It would have been obvious to an ordinary skill in the art at the time of the invention to realize the Mehta's architecturing surveillance function as being the comparing and setting the official response and the partition official response in supporting the system for surveillance of computer system operations.

This is because Mehta does reply on the pulse period or heartbeat intervals or the "responses" to determining whether the service processor performed correctly. This is further obvious to apply the Mehta's system initialization/initial program along with the stored surveillance policy setting [col. 4 lines 25-30], the computer system operation, more specifically, the service

processor can support the surveillance system uninterruptedly to enhancing the resource sharing, processing availability and performance throughput.

Applicant's arguments filed 04/13/04 have been fully considered but they are not persuasive.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 C.F.R. § 1.136(a).

A SHORTENED STATUTORY PERIOD FOR RESPONSE TO THIS FINAL ACTION IS SET TO EXPIRE THREE MONTHS FROM THE DATE OF THIS ACTION. IN THE EVENT A FIRST RESPONSE IS FILED WITHIN TWO MONTHS OF THE MAILING DATE OF THIS FINAL ACTION AND THE ADVISORY ACTION IS NOT MAILED UNTIL AFTER THE END OF THE THREE-MONTH SHORTENED STATUTORY PERIOD, THEN THE SHORTENED STATUTORY PERIOD WILL EXPIRE ON THE DATE THE ADVISORY ACTION IS MAILED, AND ANY EXTENSION FEE PURSUANT TO 37 C.F.R. § 1.136(a) WILL BE CALCULATED FROM THE MAILING DATE OF THE ADVISORY ACTION. IN NO EVENT WILL THE STATUTORY PERIOD FOR RESPONSE EXPIRE LATER THAN SIX MONTHS FROM THE DATE OF THIS FINAL ACTION.

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.


8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dieu-Minh

Art Unit: 2114

Le whose telephone number is (703)305-9408. The examiner can normally be reached on Monday - Thursday from 8:30 AM to 6:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Beausoliel can be reached on (703)305-9713. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


DIEU-MINH THAI LE
PRIMARY EXAMINER
ART UNIT 2114

DML

6/27/04